IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CRMPM No.210 of 2007

Decided on: May 25, 2007

State of H.P. **.....Applicant.**

VERSUS

Chet Ram **.....Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Applicant : **Mr. Ashok Chaudhary, Additional Advocate General.**

For the Respondent : **Mr. G.R. Palsara, Advocate.**

Surjit Singh, Judge (Oral)

Respondent was sent up for trial for an offence under Section 33 of the Indian Forest Act for allegedly felling a *Kail* tree in a Demarcated Protected Forest. According to the prosecution, the respondent was caught red-handed while converting the tree, which he had already felled, into logs. Six logs of timber were allegedly there on the spot. CW-1 Krishan Lal, Forest Guard, and CW-2 Sita Ram allegedly caught the respondent red-handed. The trial Court held that the evidence of CW-1 Krishan Lal and CW-2 Sita Ram was contradictory and also there are self contradictions in the testimony of CW-1 Krishan Lal.

2. I have heard the learned Additional Advocate General.

3. Even though it is alleged that the respondent was caught red-handed, no instrument/tool of cutting or converting the tree into timber was found on the spot. CW-1 Krishan Lal, no doubt, stated

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Whether the reporters of the local papers may be allowed to see the judgment?

that the instruments/tools have been hidden by the respondent, the other witness did not say so. Again, in the damage report detail of the timber found on the spot finds mention but it is in a different ink, which indicates that probably no timber was there on the spot and detail has been added to the damage report subsequently. CW-1 Krishan Lal, Forest Guard, in the cross-examination stated that he was unable to produce the timber which he allegedly seized on the spot. He did not explain where the timber had gone. Now, when the timber is not there how can the testimony of the Forest Guard that the respondent had felled a tree and converted the same into timber be believed.

4. In view of the abovestated position, leave to appeal is not granted. Application is dismissed.

May 25, 2007(sd) **(Surjit Singh), J.**